

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* EUGENE AMDUR, ANDREW FLINT, STEVEN LAMB, STEVE  
KOTSOPOULOS, IRVING REID, C. HARALD KOCH, ANDRZEJ  
SZYSZKOWSKI, and LARYN-JOE FERNANDES

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Appeal 2007-1107  
Application 09/552,345  
Technology Center 2100

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Decided: November 16, 2007

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Before LANCE LEONARD BARRY, HOWARD B. BLANKENSHIP, and  
ST. JOHN COURTENAY III, *Administrative Patent Judges*.

BLANKENSHIP, *Administrative Patent Judge*.

DECISION ON APPEAL

1 This appeal involves claims 25-30, 45, 54, and 55. We have  
jurisdiction under 35 U.S.C. §§ 6(b), 134(a).

## INTRODUCTION

The claims relate to a graphical user interface. Claim 25 is illustrative:

25. A graphical user interface for a security service for a computer network, the computer network comprising defined users, services and resources, the graphical user interface displaying a grid comprising nodes laid out on a first and on a second axis, user labels corresponding to defined users, each user label labeling nodes aligned relative to the first axis of the grid, resource labels corresponding to the defined services and resources, each resource label labeling nodes aligned relative to the second axis of the grid, and the nodes in the grid corresponding to access policies for the defined users and defined services and resources for the computer network, corresponding to the user and resource labels.

The Examiner relies on the following prior art references to show unpatentability:

Freund	US 5,987,611	Nov. 16, 1999
Flint	US 6,453,419 B1	Sep. 17, 2002 (filed Mar. 18, 1998)
Wiegel	US 6,484,261 B1	Nov. 19, 2002 (filed Dec. 11, 1998)

The rejections as presented by the Examiner are as follows:

1. Claims 25-27, 29, 54, and 55 are rejected under 35 U.S.C. § 103(a) as unpatentable over Flint and Freund.
2. Claims 28, 30, and 45 are rejected under 35 U.S.C § 103(a) as unpatentable over Flint, Freund, and Wiegel.

Claims 1-24, 31-44, 46-53, and 56-63 have been withdrawn from consideration as being directed to non-elected inventions.

## OPINION

### *The Standing Rejections*

Because we find that the instant claims are anticipated by the applied prior art, we sustain the rejection of claims 25-30, 45, 54, and 55 under 35 U.S.C. § 103. A claim that is anticipated by a reference is also obvious under 35 U.S.C. § 103, since “anticipation is the epitome of obviousness.” *See, e.g., Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548 (Fed. Cir. 1983); *In re Fractalossi*, 681 F.2d 792, 794 (CCPA 1982); *In re Pearson*, 494 F.2d 1399, 1402 (CCPA 1974).

We enter what we designate as a new ground of rejection against the claims, *infra*.

### *New Ground of Rejection*

We reject claims 25-30, 45, 54, and 55 under 35 U.S.C. § 102(e) as being anticipated by each of Flint, Freund, and Wiegel.

Representative claim 25 purports a graphical user interface displaying a grid having nodes and two types of labels. The claim further indicates that the nodes in the grid correspond to access policies for defined users and defined services and resources for a computer network, and correspond to the two types of labels.

Under the broadest reasonable interpretation of the claim consistent with the Specification, the claim requires no more than a mere arrangement of data on a display, such as the display depicted in instant Figure 5. The recitation of to what data on the display may “correspond” does nothing more than specify the meaning that the data are to have in the mind of a human viewer, and is not entitled to patentable weight, under the broadest reasonable interpretation of the terms. The claim is anticipated by a computer display that displays data. *See In re Ngai*, 367 F.3d 1336, 1339 (Fed. Cir. 2004) (“[w]here the printed matter is not functionally related to the substrate, the printed matter will not distinguish the invention from the prior art in terms of patentability,” (quoting *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983))). *See also* MPEP § 2106.01, p. 2100-17 (8th Ed., Rev. 6, Sept. 2007) (“USPTO personnel need not give patentable weight to printed matter absent a new and unobvious functional relationship between the printed matter and the substrate.”); *Ex parte Mathias*, 84 USPQ2d 1276 (BPAI 2005) (nonprecedential) (Federal Circuit Appeal No. 2006-1103; affirmed without opinion Aug. 17, 2006).

Here, we find there is no new and unobvious functional relationship between the recited data and the display on which the data reside. Instant claim 25 is anticipated by Flint (e.g., Fig. 6A), by Freund (e.g., Fig. 6B), and by Wiegel (e.g., Fig. 3).

Independent claim 29 is drawn to a graphical user interface comprising “display means for displaying” recited data. The described

“display means” is a computer display, but the arrangement of data on the display carries no patentable weight. Independent claim 54 is drawn to a method for displaying data on a computer display unit, which is anticipated by each of the references under a proper interpretation of the claim, since the references show displaying data on a computer display unit. Claims 45 and 55 are drawn to computer readable program code means and a program of instructions, respectively.<sup>1</sup> The claims are anticipated by the computer-implemented display of data in the references, since the information content of what is displayed represents no more than non-functional descriptive material, which does not change the underlying function of the machine that displays the data. *Cf. In re Lowry*, 32 F.3d 1579, 1583 (Fed. Cir. 1994) (“Lowry does not claim merely the information content of a memory.”). *See also Ex parte Curry*, 84 USPQ2d 1272 (BPAI 2005) (nonprecedential) (Federal Circuit Appeal No. 2006-1003; affirmed without opinion Jun. 12, 2006).

The dependent claims fail to add any subject matter that might serve to distinguish over the applied prior art. The dependent claims, for the most part, are drafted in terms of what displayed data may be deemed to “correspond to” or represent. Some of the claims (e.g., claim 26) may suggest some machine functionality (e.g., “a user definition component”) beyond the mere display of data, but under the broadest reasonable

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<sup>1</sup> We note in passing that instant claim 55 depends in the alternative from non-elected claims 52 and 53.

interpretation the claims are based on how images on a computer display screen are to be interpreted by a human viewer. The claims thus require no more of machine function than the changing of data on a display from one arrangement to another in response to a user input (e.g., a user pressing a key of a keyboard input device).

### CONCLUSION

In summary, we sustain the rejection of claims 25-30, 45, 54, and 55 under 35 U.S.C. § 103.

A new rejection of claims 25-30, 45, 54, and 55 under 35 U.S.C. § 102(e) as being anticipated by each of Flint, Freund, and Wiegel is set forth herein.

With respect to the affirmed rejection(s), 37 C.F.R. § 41.52(a)(1) provides that “Appellant may file a single request for rehearing within two months from the date of the original decision of the Board.”

In addition to affirming the Examiner’s rejection(s) of one or more claims, this decision contains a new ground of rejection pursuant to 37 C.F.R. § 41.50(b). 37 C.F.R. § 41.50(b) provides that “[a] new ground of rejection pursuant to this paragraph shall not be considered final for judicial review.”

37 C.F.R. § 41.50(b) also provides that the Appellant, WITHIN TWO MONTHS FROM THE DATE OF THE DECISION, must exercise one of the following two options with respect to the new ground of rejection to avoid termination of the appeal as to the rejected claims:

(1) *Reopen prosecution*. Submit an appropriate amendment of the claims so rejected or new evidence relating to the claims so rejected, or both, and have the matter reconsidered by the examiner, in which event the proceeding will be remanded to the examiner. . . .

(2) *Request rehearing*. Request that the proceeding be reheard under § 41.52 by the Board upon the same record. . . .

Should the Appellants elect to prosecute further before the Examiner pursuant to 37 C.F.R. § 41.50(b)(1), in order to preserve the right to seek review under 35 U.S.C. §§ 141 or 145 with respect to the affirmed rejection, the effective date of the affirmance is deferred until conclusion of the prosecution before the Examiner unless, as a mere incident to the limited prosecution, the affirmed rejection is overcome.

If the Appellants elect prosecution before the Examiner and this does not result in allowance of the application, abandonment or a second appeal, this case should be returned to the Board of Patent Appeals and Interferences for final action on the affirmed rejection, including any timely request for rehearing thereof.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED -- 37 C.F.R. § 41.50(b)

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